

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7250

Amended Petition of Deerfield Wind, LLC, for a certificate)
of public good authorizing it to construct and operate a 17-)
turbine, 34-35.7 MW wind generation facility, and)
associated transmission and interconnection facilities, on)
approximately 80 acres in the Green Mountain National)
Forest, located in Searsburg and Readsboro, Vermont, with)
7 turbines to be placed on the east side of Route 8 on the)
same ridgeline as the existing GMP Searsburg wind facility)
(Eastern Project Area), and 10 turbines along the ridgeline)
to the west of Route 8 in the northwesterly orientation)
(Western Project Area))

Order entered: 4/7/2011

ORDER RE BEAR STUDY

On April 16, 2009, the Public Service Board ("Board") issued an Order and Certificate of Public Good ("CPG") approving Deerfield Wind, LLC's ("Deerfield") petition to construct a wind generation facility in Searsburg and Readsboro, Vermont. On July 17, 2009, the Board issued a subsequent Order that included an Amended CPG. Condition 12 of the Order and of the amended CPG states: "Deerfield shall conduct a multi-year study on the impact of the Project on bears. Deerfield shall file a proposed study protocol for approval by the Board." In its Order amending the CPG, we stated: "[T]he Board required that Deerfield conduct a study to determine the indirect impacts of the Project on bears. Such a study would be multi-year, and would be conducted both prior to construction, and after the Project has been operating."¹

On November 12, 2010, Deerfield filed a stipulation that outlines an agreement reached among Deerfield, the Agency of Natural Resources ("ANR"), and the Vermont Natural Resources Council ("VNRC") (collectively, "Stipulating Parties") regarding the bear study required by conditions 10 and 12 of the CPG. The stipulation requires Deerfield to provide up to \$500,000 to ANR to be used for a GPS-based study to evaluate the project's indirect impacts on

1. Docket 7250, Order of 7/17/09 at 4.

bear use of habitat adjacent to the project site; parties assert that such a study will meet condition 12 of the CPG. In addition, the stipulation states that the snag study proposed by Deerfield meets condition 10 of the CPG. A proposed study protocol was not filed with the stipulation.

On December 23, 2010, the Board issued a memorandum requiring the Stipulating Parties to explain how the stipulation complies with the following requirements contained in the Board's Order:

1. The study will be multi-year, and will be conducted both prior to construction and after the Project has been operating.
2. Deerfield shall file a proposed study protocol for approval by the Board.

On January 26, 2011, Deerfield filed a letter stating that the stipulation "does not expressly condition commencement of construction on collection of pre-construction GPS data but the parties collectively agree that the GPS study will meet the intent of condition 12 (pre-construction data has been collected through Deerfield Wind's snag study)." In addition, the January 26 letter included a draft study protocol. Deerfield represents that the letter was also filed on behalf of ANR and VNRC.

We applaud the parties for reaching an agreement on this contentious issue. We conclude that the stipulation and protocol, with the requirements discussed below, meet conditions 10 and 12, and we approve the stipulation and proposed protocol subject to those requirements.

First, our July 17, 2009, Order specifically required that the study include pre-construction and post-construction data. Because Deerfield must still meet several conditions included in the CPG, and must still receive approval from the Forest Service to construct the facility on National Forest lands, prior to the commencement of construction, it appears that there will be sufficient time to collect pre-construction data. In addition, the January 26 letter indicates that the study could be started soon; we would expect that a fair amount of GPS data could be collected prior to construction and this data could be used as a baseline to compare post-construction data. Deerfield asserts that the snag study provides pre-construction data; however, we are concerned that, because the study protocols for the snag study and GPS study are so different, the snag study alone may not provide appropriate baseline pre-construction data with which to compare the post-construction GPS data. Additionally, at the August 31, 2010,

workshop to discuss the required bear study, all of the parties that participated, excluding Deerfield, contended that the snag study alone would not provide adequate information to evaluate the indirect impact of the project on bears. Therefore, we require that the study collect pre-construction GPS data for the longest time period that is reasonably possible, and at least through the fall of 2011.

Second, the GPS study protocol submitted on January 26 does not indicate that an attempt will be made to correlate bear location with turbine operation. In other words, it is unclear whether the analysis at the conclusion of the GPS study will be able to determine whether there was a pattern of use or avoidance of adjacent habitat during days that the turbines were operating. The proposed protocol submitted on January 26 states: "Further technical details of the study design will be developed through a Request-For-Proposal (RFP) process and once a Principal Investigator and research institution has been selected." We require that the GPS study be designed to enable bear-location data to be correlated with turbine operation.

SO ORDERED.

DATED at Montpelier, Vermont, this 7th day of April, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

Filed: April 7, 2011

Attest: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)